

LORD ST. LEONARDS

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Justice Perverted!

BY

LORD ST. LEONARDS.

“Will time ever purge Fraud? *Never while I sit here!* Every delay adds to the injustice and multiplies the oppression; *and no wrong is without a remedy.*”—LORD NORTH.

I.—The Address.

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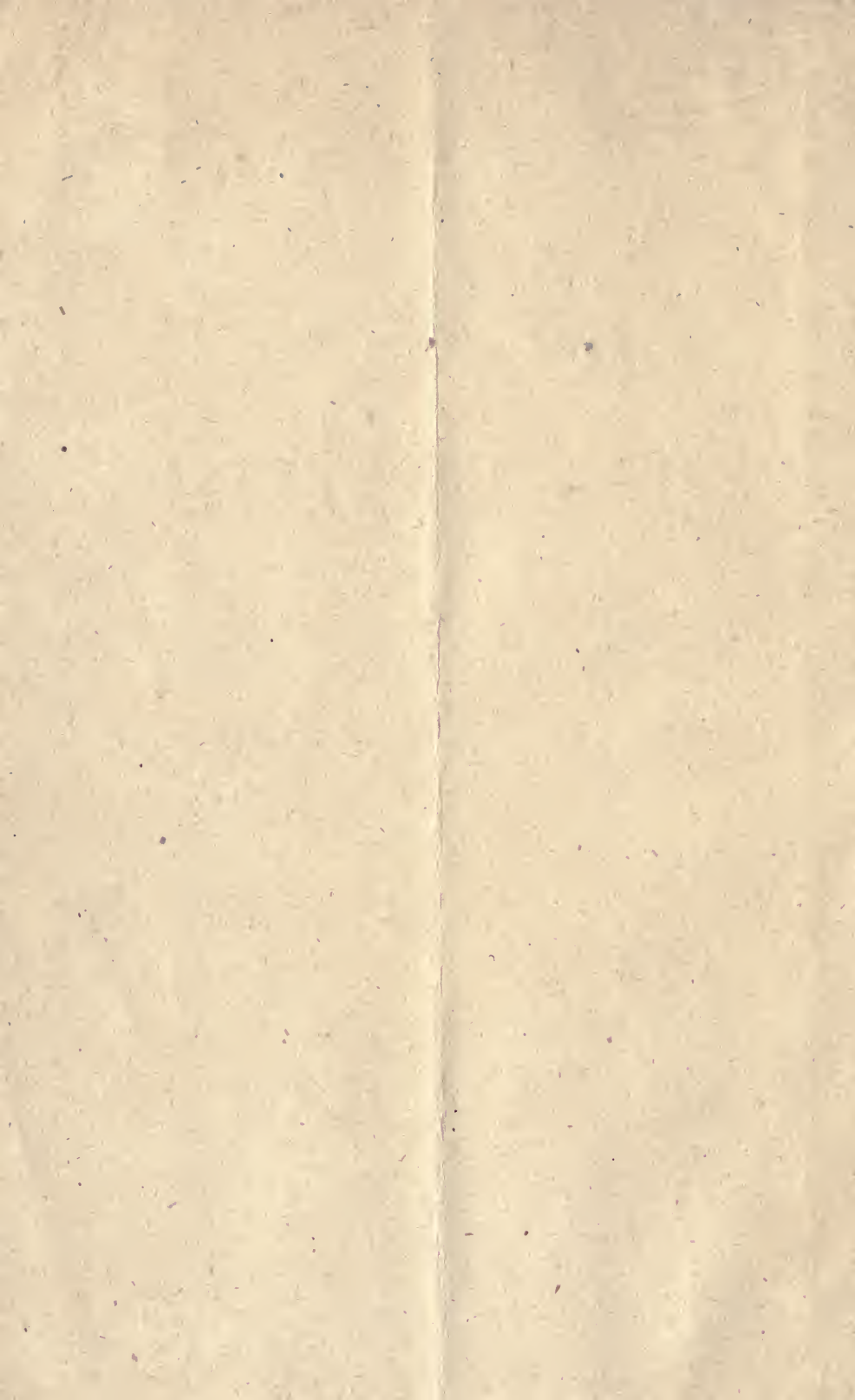
IV.—The Appeal.

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1861.

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Sugden, E.B

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II.—THE HISTORY.

III.—THE PETITION.

IV.—THE APPEAL.

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ROBERT DAVEY, PRINTER,
TICHBORNE COURT, HIGH HOLBORN, LONDON.

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The Address.

TO THE PROFESSION :—

THERE is no order in the community more contemptible than that of those practitioners in the law, who, without one liberal principle of justice or equity, possess a skill in little else but quibbles, and in those points by which Chicanery is taught to proceed with impunity—Cunning enabled to elude the spirit by misrepresenting the letter—and Truth perplexed, obscured, and lost in the mazes of mystification.

It is indeed surprising that many who call themselves men of honour, and who profess to have had a liberal education, should allow themselves, even in the practice of their profession, to assert palpable falsehood,—to confound the clearest evidence,—and defend, with all the appearance of sincere conviction, what they know to be altogether indefensible. It is not an admissible apology to assert that their PROFESSION requires such an abasement; for a similar justification might be offered by the sharper or the highwayman. There are, undoubtedly, certain laws of honour and truth established in the heart of every honest man, of which no regard for lucre or jesuitical pretence of necessity can justify the infringement.

There seems, indeed, to be a very unfortunate error, in many—among the students of the law—who value abilities and technical knowledge at a high rate, but entertain no great esteem for goodness of heart and integrity of conduct. While the world allows them abilities and knowledge, they depend, with security, on tergivisation and mal-administration. Indeed, we have had living examples to prove, that however bad the morals of a man, if the impudence and eloquence of the lawyer are approved he may have what briefs he pleases—and even be advanced to the dignity of a Lord Chancellor! In whose court Law is to be corrected by Equity and where the Conscience of the Judge has the chief control.

Whatever be the abilities of a man, yet, if he be notoriously irregular and intemperate—in violation of those laws which are prior to all human laws—he ought not to be promoted to any offices of trust or honour,—particularly in the law.

Though, therefore, the student in the law may see such men advanced and encouraged, let him not be deluded; if he is wise, he will still give his greatest attention to the cultivation of a pure and honest heart—this will engender more satisfaction than was ever derived—to a bad man—from the insignia and emoluments of office and the fees bestowed by popular favour. Whatever practice or preferment can be acquired consistently with this accept with gratitude; but if the public or the rulers of a nation still prefer the bold pretender, whose appearance and abilities arise from that audacity which accompanies a bad and unfeeling heart, despise all that they can bestow. Remember! that this life is short, and that there is

another; that this world is a place of probation, the next of reward; that a pure heart, a clean conscience, an independent spirit, and a soul that spurns the lucre which is to be gained by unmanly and time-serving servility, are infinitely superior to the possession of the Seals with their usual appendages,—a Peerage! and a Pension!!

With respect to the modes of preparation for this profession, I see, with regret, that an illiberal method prevails, in many instances, by confining the future advocate to the desk of some practising lawyer and teaching him the ordinary routine business, where he sits and copies dry formalities which tend to contract instead of expanding his mind; and which, without he possess a remarkable dulness of disposition, he cannot attend to, and by these means he acquires a narrow and confined mode of thinking which a liberal mind would despise. He then becomes, as it were, a spider, spinning foul cobwebs in the dark recesses of the heart and endeavouring to entrap those diminutive objects which a more generous animal would not deign to ensnare.

The true method of arriving at an eligible species of eminence in the study of the law is to enlarge the capacity of the mind by a comprehensive and classical education; the study of humanity; and a general and enlarged philosophy—moral, national, and theological; these ought to form the firm basis of the superstructure. To this should be added ancient and modern History, general jurisprudence, and a thorough acquaintance with the spirit of the law in all the civilized nations of antiquity. Long and accurate observation of men and manners ought to be added, and the virtues of exemplary benevolence and humanity should complete the fabric. Such should be the preparation. What it is we have already seen!!

Whoever has read the works of Cicero will remember how great a share of learning he requires in his orator,—who was, indeed, a pleader and advocate; but not such a pleader or advocate as many who have disgraced our modern courts of Judicature, The great statesmen of Rome supported the character of lawyers with a peculiar dignity unknown to modern institutions. Adorned with philosophy as well as law they descended into the courts to defend their clients,—not with the hope of a paltry fee, but induced by the pure motives of friendship and humanity, with a desire of doing good and a regard for justice. Men, it is true, must live by their professions, and, therefore, the disinterestedness of the ancients, who had other resources, cannot be universally imitated. But, surely, in an age that pretends to peculiar illumination and philanthropy, and among people who have long professed a most humane religion, it is wonderful to find men who assume so important a profession, ready to defend any side for pay,—which not only tends to harden the heart and deaden the feelings of humanity but stifles all the sentiments of true honour and integrity.

AUCTORITAS.

The History.

ON THE THIRTEENTH OF MAY, One thousand Eight Hundred and Thirty-three I made an assignment of my Hotel and property (of the value of £8,000) in trust to my creditors for the purpose of securing the debts then owing by me to them; Trustees were appointed, viz., James White, Robert Courtney, and George Kernan. The terms of the trust deed were to allow me five years and eight months from the date of the same, to carry on my business on the same premises, *without arrest or attachment* against my *person* or *estate*, and at the expiration of the term, my debts being duly discharged, a re-assignment of the property was to be made to me, and it was further provided, that in the event of the creditors acting contrary to the deed, *their* debts were also to be forfeited, and *the Trustees were to pay all expenses of the deed out of the first profits of the business.*

In the face of this covenant they set their solicitor, John Knight Boswell, to sue me in the King's Bench for the costs of preparing the Trust Deed, (about £80) and for which I was arrested.

There was a further provision in the Deed, that nothing therein contained should in any way be construed so as to interfere with my situation as Messman to the Guards in the Royal Barracks.

Yet in spite of this, James White, the acting Trustee, went to the Barracks and so grossly misrepresented me to Colonel Aitchison, that he got the supply of the Wines to the Officers out of my hands.*

On the 18th of December, 1833, the Trustees served a notice on me, that in three months they would sell the Hotel for an alleged breach of covenant on my part, although I had committed none, neither had the Trustees power to sell under the Deed had they acted honestly.

Shortly after date of Deed, George Milliken (brother of Thomas Read Milliken, my landlord, and in family connected with James White the acting Trustee) then about 20 years of age, got married, and wishing to provide a home and business for him by the ruin of my family, it was carried into effect by the facilities then afforded by the Irish Court of Chancery as hereinafter shewn.

* See Sir Edward Blakeley's Deposition, page 18.

The Petition.

IN THE HOUSE OF COMMONS.

Session 1861.

Notice of Motion to be given on the subject following:—

Extract from Sixteenth Report of the Select Committee on Public Petitions.

“TOMMEY, HENRY.—For Inquiry.

“11,267, April 23. HENRY TOMMEY *the elder*, of No. 12, Hemlock Court, Carey Street, in the county of Middlesex, Gentleman, formerly the proprietor of the hotel in Upper Sackville Street, in the city of Dublin, known as ‘Tommey’s Hotel,’ (Mr. BRADY).”

“The Petitioner states that in 1848, he appealed to the House of Lords from a Decree of the High Court of Chancery in Ireland, of 1836. The said Appeal came on for hearing in 1850, when, no Respondents appearing, the said Decree was reversed; the Bill of the Respondents “dismissed with costs; and the cause remitted back to the said Court of Chancery. In the same year the Respondents prayed that the appeal might be re-heard, but the House decided they could not grant a re-hearing unless by authority of an Act of Parliament; and subsequently in 1852, the Respondents presented a second petition for re-hearing, and the proceedings arising out of the Order of the House of Lords were stayed; in 1853, the second petition for re-hearing came on for hearing, and the previous orders made in the case were discharged; he alleges that undue means were employed in this matter, and complains of having sustained losses to the extent of “£150,000; and prays for inquiry into his case and circumstances, and that he may have justice.”

Sir,—May I respectfully call your attention to the abstract of the petition quoted above, and ask you to read the petition *in extenso*, whereby you will be made fully acquainted with the ruin that has been entailed on the petitioner, whose only hope is redress by means of a Committee of Inquiry; having no support but 9d. per day, for services rendered his country many years since.

It may be said that the House of Commons cannot have anything to do with this case, as it was a case in the Lords; the answer to this is ready and simple. The judicial branch of the legislature has done a wrong to the petitioner. Mr. Barber got compensation for a wrong by the Executive, and Col. Keogh now seeks by petition presented by Whiteside, 13th March last, compensation for a wrong by a Court of Justice in Ireland.

Mr. Brady, the M.P. for Leitrim, has presented the petition, and is truly anxious to assist herein; but requests the co-operation and support of other members. May I therefore ask your support and assistance herein.

Yours respectfully,

G. HETHERINGTON,

Agent for Petitioner.

2, Manchester Buildings, Westminster.

To the ILLEGAL READER :

A simplification of the following mystification will be found at pages twenty-three and twenty-four of this pamphlet.

PETITION.

ON the 9th day of April, 1834, James White, Robert Courtney, and George Kernan, then severally of the City of Dublin, (trustees named in a certain indenture of trust bearing date the 13th day of May, 1833, and executed by me) exhibited their Bill of Complaint in her Majesty’s High Court of Chancery, in Ireland, against me and one Thomas Read Millikin; amongst other things, setting forth the said indenture of trust, and praying that a sale might be had of the property and term demised by said indenture of trust, and that an account might be taken; and that they the said trustees might be put into the immediate possession of, or that a receiver or manager might be appointed over the premises in said

Deed and said Bill of Complaint mentioned, of which said premises I was and am owner, and absolutely entitled thereto notwithstanding any deed or act whatsoever made or done by me in relation to the said premises.

On the 25th April following the trustees, by means of fraud, collusion, and misrepresentation in the said Court of Chancery, obtained, *ex parte*, an order for the appointment of a receiver over my property, the subject matter of the trusts in said Deed contained, which fraud was afterwards shown on Appeal to the House of Lords.

George Millikin (who was related to James White, acting trustee, and brother of Thomas Read Milliken) was appointed receiver, and in conjunction with said trustees, obtained by surprise, (upon an affidavit containing wilful and corrupt perjury made by him) and without me being heard, an order for the dispossession of me and my family by means of a Writ of Assistance, thereby carrying into immediate effect the object which the trustees and said Millikins had in view, that is to say, to deprive me and my family of all we were possessed, and turn us out of house and home before I could resist their fraudulent efforts, which resistance I was prevented from making, by means of the aforesaid fraud and collusion, *and which said fraud, collusion, and misrepresentation were aided and participated in by several officers of the said Court of Chancery, who were for years continued in office in said Court; and have since been permitted to retire upon a pension granted out of the accumulated Suitor's Fee Fund of said Court of Chancery.*

The aforesaid fraud, collusion, and misrepresentation in the said Irish Court of Chancery, and the said dispossession were a breach and violation of the covenants in said Trust Deed contained, and which gave me full and absolute liberty, power, and license to continue and carry on my business in the said trust premises for a term of five years and eight months from the date of said indenture, without any arrest, attachment, impediment or molestation whatsoever, against my person or estate by any of the parties thereto, or by any of their means, procurement, or consent.

Having filed my answer to said Bill of Complaint and witnesses having been examined on all sides, (pursuant to order made on the 9th June, 1834,) the said cause came on to be heard in Hilary term, 1835, before *Sir Edward Burtenshaw Sugden*, then Lord Chancellor of Ireland, and hereinafter more particularly named.

The reading of evidence adduced by said trustees and said Millikins, occupied the court nearly two whole days, and I attended the said hearing and was present in said Irish Court of Chancery when the depositions of two witnesses, taken on my behalf, were read by my counsel, and I then distinctly heard the said *Sir Edward Sugden*, as such Lord Chancellor, declare from the bench—"That the said trustees had *no right to file said Bill of Complaint, and that he would dismiss it; that he put little faith in their evidence*, and that the meeting in January, 1834, was a waver of all notices;" whereupon the court adjourned.

Notwithstanding this declaration, and notwithstanding also the letter of license granted, as aforesaid, to me by the said indenture of trust, the

said *Sir Edward Sugden* came into Court on the following morning and desired to know "*if the case did not close there,*"—and without going any further into the case," and having assumed that I was then in receipt of £800 per year from the *Hibernian United Service Club*, he did, as such Lord Chancellor, on the 30th January, 1835, order and decree that all my property in said deed and said Bill of Complaint described and mentioned (the furniture alone exceeding in value the sum of £8000) should be set up and sold; and after directing certain unnecessary accounts to be taken, ordered a continuance of said receiver or manager, thereby confirming my dispossession, and the fraud, collusion, and misrepresentation aforesaid; which decree was enrolled in said Court on the 20th day of May, 1835.

Nearly all the property sold under said decree was purchased at an under value by the said receiver, for the purpose of carrying on for his personal benefit the business which I had established, and had carried on with such advantage and profit to myself and family, that it was capable of yielding profit to the amount of £4,000 a year, and upwards; which, together with other sources of business and profits would have realized me an annual profit of £6,000 and upwards, all of which have been lost to me by the proceedings and acts of said trustees, the said decree, and the orders hereinafter mentioned, bearing date respectively, 26th June, 1852, and the 5th April, 1853.

A decree, upon further directions, was made in the cause, by which the proceeds of said sale amounting only to £2,500 or thereabouts were distributed amongst the said Millikins and the said trustees, their several costs being included among the collusive claims, set up by them as having been incurred in and by the proceedings instituted by them as aforesaid, which decree was not enrolled in the said Court of Chancery until the year 1849.

I was prevented by want of means, and by imprisonment at the instance of one or more of said colluding parties, from appealing to the House of Lords against the said decree of 30th January, 1835, before two years had elapsed from the enrolment thereof, or in time to stop the progress of sale by an order of the House of Lords.

In the month of June, 1837, I presented a petition to the late Right Honourable *Lord Plunket*, then Lord Chancellor of Ireland, setting forth my grievances and praying restitution of my said property, which I was actuated to do, not having the benefit of professional advice or assistance, and relying upon the declaration of the said last mentioned Lord Chancellor of Ireland made in open court on the 3rd day of June, 1836, that is to say "*that said trustees had no right to take the law into their own hands, and that the proceedings so instituted by said trustees were wrong altogether—that they could not, nor would they stand.*"

That the late *Sir William MacMahon* Master of the Rolls in Ireland, in the year 1836, and every Judge before whom my case was brought (except Mr. Blackburne, the late Lord Chancellor of Ireland, and Mr. J. B. C. Smith, the present Master of the Rolls in Ireland, hereinafter severally named) have expressed themselves in open court to the effect

that the said proceedings were wrong, that said trustees had no right to a sale or any other relief sought by them, and so fraudulently obtained as herein shown.

"No rule" was made upon said petition ; in the month of March 1839, I appealed therefrom to the House of Lords, which appeal was dismissed on the 27th August, 1839, upon the ground, "that the appeal was not 'against the decree of 1835, but from an order making 'No Rule' upon 'the petition aforesaid and that upon such a petition no relief could be 'granted against a decree enrolled."

In the year 1844, the said *Sir Edward Sugden*, having been re-appointed Lord Chancellor of Ireland, I forwarded to him a petition for restitution to my property against the decree pronounced by him as aforesaid, when the said *Sir Edward Sugden* sent direction to me "to 'bring my case regularly before him in the said Irish Court of Chancery, 'and that he (said *Sir Edward Sugden*) would give me justice."

In the month of June, 1844, I filed a Bill of Review and Reversal in the said Irish Court of Chancery, thereby impeaching the said proceedings for fraud.

After some extraordinary orders made on said Bill of Review by *Mr. Blackburne*, then Master of the Rolls in Ireland, (whereby the general order of Court was relaxed in favor of said trustees, and Millikin, to my prejudice. Demurrers for want of Equity were allowed by the said Master of the Rolls on 30th January, 1845, who in pronouncing Judgment expressed his 'regret (in open Court) that he could do "nothing more against me," and upon appeal to said *Sir Edward Sugden*, the orders allowing said demurrers, were by a decree dated 14th February, 1845, affirmed; notwithstanding the undertaking of the latter Judge to do me justice.

On the 5th day of February, 1846, I appealed to the House of Lords from said demurrer orders and the decree of said *Sir Edward Sugden*, on appeal therefrom, and I was advised to include in said appeal the aforesaid decree of 30th January, 1835, but which proceeding was not allowed when the said appeal came on for hearing at the Bar of the House of Lords, for the reason (as expressed by the late *Earl Cottenham*) "that the decree of January, 1834, was not made in the same cause with "the said demurrer orders and decree thereon in the year 1845."

The Right Honourable *Lord Brougham* was present at the Hearing of said second appeal, and concurred in the opinion expressed as aforesaid by said *Earl Cottenham* as to the irregularity of including the said decree of 30th January, 1835, in an Appeal from subsequent Orders not made in the same Cause with that Decree and in consequence thereof the said decree of 30th January, 1835, was neither reversed nor affirmed by the said House of Lords, nor was the same then adjudicated upon, but the other orders and decree appealed from by the said second appeal were on the 8th July, 1847, affirmed, and the said appeal was dismissed as being "an appeal against the said orders on demurrer, of "30th January, 1845, and the said decree on appeal therefrom of the "14th February, 1845."

In the following Session of Parliament (that is to say, on the 23rd May, 1848) under the foregoing circumstances I obtained leave to present an appeal from the said decree of 3rd June, 1836, and other orders in the said cause, with liberty to apply, if so advised, for leave to extend my last appeal, when the same should be before the House, to the said decree of 30th January, 1835.

Having in the month of June, 1848, presented my last appeal against the said decree of 3rd June, 1836, as also against the said orders of 25th April, 1834, and 15th May, 1834, and all the proceedings had in the said cause, thereby praying a reversal of same, and that I should be restored to the possession of my property; and the order to answer said last mentioned appeal, (which was the third appeal) having been duly served on the said trustees, and said Thomas Read Millikin, (respondents to said appeal), I subsequently presented a petition for leave to extend my said last appeal to the said decree of 30th January, 1835, as having been made in the same cause with subsequent orders appealed from, and on the 2nd September, 1848, I obtained an order for leave to amend my said last appeal by extending same to the said decree of 30th January, 1835, which was accordingly done, and by my printed case upon said last appeal set forth the several proceedings appealed from, and the aforesaid fraud, collusion, and misrepresentation in the said Irish Court of Chancery, by means of which such proceedings were had.

The said last appeal was the first and only time upon which the merits of my case were brought under consideration of the said House of Lords, and the same was duly and regularly brought to a hearing at the bar of the House, and upon the second day of hearing the Right Honourable *Lord Brougham* (then presiding in the House of Lords) stopped the address of my counsel (Sir John Romilly, now master of the Rolls) by saying "*Stop! Stop!! Romilly, for God's sake stop!!! I have heard sufficient to show that there was something wrong in the Court below; I mean a miscarriage in the proceedings,*" and in giving judgment his Lordship's words were, "*We are bound to give this poor Man all the justice we can,* HAD HE APPLIED TO US SOONER, WE WOULD HAVE STOPPED THE SALE OF HIS PROPERTY.

On the 2nd July, 1850, it was ORDERED and ADJUDGED by the *Lords Spiritual and Temporal in Parliament assembled*, "That the said decrees of the 30th January, 1835, and 3rd June, 1836, and all orders arising or proceeding out of the said original suit or incidental thereto, be and the same were thereby reversed, and that the Bill of the said James White, Robert Courtney, and George Kernan, in the said cause in the said Court of Chancery in Ireland be and the same was thereby dismissed with costs, to be paid by the said James White, Robert Courtney, and George Kernan to me; and that the costs in the said cause which had been paid to or received by the said James White, Robert Courtney, and George Kernan, any or either of them, out of the funds to the credit of the said cause in the said Court of Chancery in Ireland, or otherwise, either under the said decrees thereby reversed or either of them, or under any order in the said cause and in all suits

" arising or proceeding out of the said original suit or incidental thereto, should be repaid by the said James White, Robert Courtney, and George Kernan to me. And it was further ordered, that the cause be remitted back to the said Court of Chancery in Ireland, to do therein as should be just and consistent with this Judgment."

Although the aforesaid orders of 25th April, 1834, and 15th May, 1834, were reversed by the said order of 2nd July, 1850, yet the Lords' order of 1850 was silent, as to the effect thereof, with reference to those officers of the said Irish Court of Chancery, who had aided and participated in the fraud and collusion by which the said orders of 1834 had been obtained, the said officers not being parties to said appeal; and said Lords' order was also silent as to the nature and extent of further relief, which as I am advised and believe would have resulted from said order upon ulterior proceedings being taken by me to carry out the intent of said House of Lords' order, by bringing before the Court all the confederates of said trustees.

About three weeks after said last mentioned order was pronounced by the House of Lords, the respondents James White, Robert Courtney, and George Kernan, presented a petition to the House of Lords *praying that the said appeal as amended might be re-heard.*

That a report, which I believe to be a true statement of facts, and of which the following is a copy, appeared in the *Times Newspaper* of 26th July, 1850, under the head of

APPEALS—HOUSE OF LORDS.

TOMMEY V. WHITE.—COMPLAINT BY LORD BROUGHAM.

" It will be in the recollection of our readers that Lord Brougham, some week or two since, gave judgment in this case, overruling the decree of the late Lord Chancellor. Since that time a petition has been presented to the House by the respondents, praying that the Appeal may be again heard by Counsel this morning.

" LORD BROUGHAM, when the first case was called on, said, (holding up a letter between his finger and thumb) ' I have received this letter, which I shall hand over to Mr. Lefevre; it is a most irregular proceeding, and I excuse it only on account of the ignorance of the party. Mr. White, is he here?' By-the-bye, no answer was made to this exclamation.) ' My Lords, this was an *ex parte* case; there were no respondents appeared at your Lordships' Bar, and judgment was pronounced. Mr. White called upon me at my house, but I would not see him; and then afterwards he wrote this note, which I now shall hand to Mr. Lefevre. It is most irregular, it is a most improper proceeding. *Similar letters have been written to the learned Judges—and where they would have had a more hurtful effect than this letter has had in the present instance, because, in those other cases, it had been before the judgment had been delivered that the letters have been sent, but in this particular case it is after the Judgment has been delivered, and, therefore, it is impossible to undo what has been done, except by Special Act of Parliament.* This was a most improper act on the part of Mr White.'

" At the end of the Appeals, the LORD CHANCELLOR having taken his seat on the Woolsack, and His Royal Highness the Duke of Cambridge having taken the oaths and his seat, LORD BROUGHAM said he understood that Mr White, the respondent in the case of Tommy v. White which he had occasion to mention at an earlier part of the day, was in attendance upon their Lordships. He would, with the permission of the House, move that the gentleman should be called to the Bar and asked for an explanation of the course he had pursued, and what it was that he required.

" Mr. White having been called up to the Bar, said, in reply to the question, that what he wanted was, that he might be heard by counsel at the Bar of their Lordships' House, in answer to the case which had been heard on behalf of the appellant, the fact was, that the respondent's case had not been heard at all.

"LORD BROUGHAM explained that the case had been heard *ex parte* for this simple reason, "that although the respondent had lodged his case he had failed to appear at the Bar when the "matter had come on for hearing in the usual order and the usual way. His Lordship then "went into an outline of the case. After some further discussion upon additional explanation "by Mr. White,—

"The LORD CHANCELLOR said that there appeared to be no grounds advanced by the Petitioner to warrant their Lordships in granting the prayer of the petition that the appeal should "be heard over again. The party had not thought proper to appear when the case had come on "for argument in the regular order, the Counsel in support of the Appeal had been heard, and "final Judgment had been pronounced by their Lordships. What had been done, therefore, "could not be undone, except by Act of Parliament.

"Mr. White then withdrew."

The late *Lord Truro* was then Lord High Chancellor of England, and the House of Lords fully and unanimously acquiesced in the said *last recited decision*.

Now I am advised, and I humbly submit and insist that the aforesaid Judgment of 2nd July, 1850, was final as to all matters thereby adjudicated upon, and should not have been disturbed upon any pretence whatsoever, without the concurrence and authority of the House of Commons.

The said order of 2nd July, 1850, was duly received in the said Irish Court of Chancery, and proceedings were taken to carry the same into effect, which resulted in a decree of the said Court, dated April, 1851, whereby I became entitled to the sum of £1,607 19s. 2d. as against said trustees, being the ascertained amount of costs, directed by said order of the House of Lords to be repaid to me.

The said trustees used every means in their power to delay and frustrate the progress of said proceedings, to gain time for the purposes hereinafter stated.

In the month of November, 1851, I presented a petition to the *then Lord Chancellor of Ireland* against the trustees, and the solicitor and officers of the Irish Court of Chancery who had aided and participated in the fraud and collusion which had been put in force against me in the year 1834, as hereinbefore shown, upon which petition an order was made by his Lordship, directing all parties to attend in Court on the next day for hearing petitions.

This petition came on to be heard before the Right Honorable *T. B. C. Smith*, then and now Master of the Rolls in Ireland, and the parties being in attendance, his Honor dismissed the petitions with costs, upon the alleged ground "that the officers of the said Court had only "done their duty," thereby acquiescing in the fraud and collusion perpetrated by them as aforesaid.

In open court I objected to the Judgment of said Master of the Rolls, but was prevented from appealing to the said Lord Chancellor by an order of the House of Lords dated 5th April, 1853, as hereinafter shown.

Pending such proceedings under the said order of 2nd July, 1850, the *said trustees* caused to be prepared a certain pamphlet or libellous publication animadverting upon the said Judgment of the House of Lords and grossly misrepresenting the facts of the case and perverting the truth.

This pamphlet entirely suppressed the fraud, covin, and misrepresentation perpetrated in the Irish Court of Chancery by the trustees and

certain officers of the Court of Chancery acting in collusion with them ; and the same was prepared under the revision, and with the concurrence, approbation, and consent, (as I am informed and believe) of the said *Sir Edward Sugden*, and was afterwards circulated amongst Members of the said House of Lords.

Pending also such proceedings, and whilst the pamphlet was in preparation and so circulated, the trustees made fraudulent disposition and transfer of their property to evade the performance of the decree of April, 1851, and thus to defeat the operation and intent of the said House of Lords' order of 2nd July, 1850, and I was driven to file a Cause Petition under the Chancery (Ireland) Regulation Act, 1850, to set aside such fraudulent disposition and transfer of property, and which said Cause Petition was subsequently brought to a hearing in the said Irish Court of Chancery, as hereinafter more particularly shown.

In the year 1852 the said *Sir Edward Sugden* was on the change of Her Majesty's Ministers elevated to the peerage by the style and title of *Baron St. Leonards*, and was then appointed *Lord High Chancellor of England*.

Shortly after such appointment, another petition, signed by *Charles Edward Jemmett*, solicitor (who is brother to the son-in-law of said Lord St. Leonards), was prepared and presented to the House of Lords on behalf of said trustees, (notwithstanding they had absconded to evade performance of the decree of the Court, and were then actually in France), and by which petition it was, amongst other untruths and misrepresentations stated, that the said decree of 30th July, 1835 had been affirmed by the said Lords' Order of 8th July, 1847, which I here show was not the fact ; and it was by said petition distinctly averred that if the said Judgment of 2nd July, 1850, were carried into effect, it would cause *the ruin of all their families* ; and the said trustees, by said last mentioned petition, again sought a re-hearing of my said last appeal, and prayed that all proceedings under the said order of 2nd July, 1850, might be stayed.

Thomas Haughton White, solicitor for said trustees, hereinbefore and hereinafter more particularly named, on the 31st May, 1852, served said petition of re-hearing on me in the said Irish Court of Chancery, whilst I was attending the hearing of aforesaid *cause petition* before the Right Honorable *Francis Blackburne*, then Lord Chancellor of Ireland, who pronounced a decree in said matter, which decree has had the effect of confirming the aforesaid fraudulent disposition and transfer of property by the said trustees ; and I here show that said *Francis Blackburne* was Attorney-General for Ireland in Hilary Term, 1835, and had been my counsel at the aforesaid hearing of said original cause before *Sir Edward Sugden*, and was Master of the Rolls in Ireland in the year 1845, when the orders on demurrer were made by him against me as hereinbefore shown.

Notwithstanding objection to said petition of re-hearing was taken by me, yet all proceedings taken by me under the said order of 2nd July, 1850, were (without my said objection being heard) stayed by an order of the said House of Lords, dated June, 1852, and made while the said

Lord St. Leonards held the custody of the Great Seal of England, and while acting in his capacity of Lord High Chancellor and Speaker to the House of Lords, and it was by said order Ordered that the matter of said second petition for re-hearing of said last appeal, and the matter also of a certain other petition presented to said House by me (amongst other things praying for "security for costs, and that said trustees might be "directed to lodge with the proper officer of the House of Lords the said "sum of £1,607 19s. 2d., and also praying that Thomas Haughton White, "solicitor, as aforesaid, and the son of one of the trustees, being also the "Mr. White mentioned in the aforesaid report of the *Times Newspaper* "of 26th July, 1850, should be called to the Bar of the House to answer "for the contempt therein published") should be argued at the Bar of the said House of Lords by one counsel at a side.

This petition of re-hearing was, subsequently, (that is to say, early in the Session, 1853) argued at the Bar of the said House of Lords by one counsel on behalf of me, and by two counsel on behalf of said trustees, one of the latter (a *Mr. Reilly*) being another son-in-law to said *Lord St. Leonards*; while the petition presented by me (mentioned in said order of June, 1852) was not considered by the said House of Lords.

Lord St. Leonards ceased to be such Lord High Chancellor of England prior to petition of re-hearing being argued, and I caused to be served on the agent for said trustees a notice of my intention of objecting to said Lord St. Leonards taking any part in the decision to be made on said petitions, a copy of which notice was left with the Deputy Clerk of Parliament.

In consequence of my said objection the said *Lord St. Leonards* did not attend the House of Lords on the hearing of said second petition of re-hearing, but effect was given to the prayer thereof by *Lord Cranworth*, then Lord High Chancellor of England, upon the ground as hereinafter shown, "*that if Judgment were given in my favor, twenty families* (those of the respondents to said appeal) *would be ruined,*" and I declare that this ground of such Judgment must have been suggested by said Lord St. Leonards by extra-judicial communication; in proof whereof, as evidence of the fact that acts have been committed with reference to the said order of 5th April, 1853, which call for the investigation thereof by Parliament; I refer to the said hereinbefore recited extract from the averments of the petition of re-hearing, prepared in manner aforesaid by the said Charles Edward Jemmett, such extract having reference to said suggested *ruin of families*, and the report of the *Times Newspaper* of 26th July, 1850, hereinbefore set forth.

That on the 5th of April, 1853, *Lord Cranworth* pronounced the Judgment of the House of Lords on said petition of re-hearing when I was present, and I distinctly heard the said Lord Cranworth, while delivering his Judgment, state the following words, that is to say,— "*Admitting the decree of 1835 to be wrong, and I know it to be wrong,* "YET IF WE GIVE JUDGMENT IN TOMMEY'S FAVOR THERE WILL BE TWENTY "FAMILIES RUINED," the said *Lord Cranworth* also stated "that he was

“satisfied that all notices required for the purposes of said appeal had been duly served upon the respondents, save and except only the first notice of petition for sessional orders, which it was immaterial whether served or not,” and the said *Lord Cranworth* in pronouncing Judgment, adopted the suggestion contained in said second petition of re-hearing to the effect “that the said decree of 30th January, 1835, had been affirmed by the said House of Lords’ order of 5th July, 1847.”

Notwithstanding the said judgment and decision of the House of Lords on the 25th July, 1850, it was by an order dated 5th April, 1853, “ORDERED by the *Lords Spiritual and Temporal in Parliament assembled*, “that the said orders of the 23rd May, 1848, and 2nd September, 1848, “respectively made in the said House in the said cause, upon reports “from the appeal committee, and also the said order of the said House “of the 2nd July, 1850, ordering and adjudging as therein mentioned “be and the same were thereby discharged. And it was further ordered “that the said Court of Chancery in Ireland do deal with the said cause “remitted back to the said Court by the last mentioned order of the “2nd July, 1850 as might be just, having regard to the fact that the “several orders aforesaid had been discharged by the said House by the said (now recited) Order.

The said orders of 23rd May, 1848, and 2nd September, 1848, were duly brought under the full, mature, and deliberate consideration of the said House of Lords, whilst the appeal in relation thereto was being argued at the Bar of the said House, and previous to the said Judgment being pronounced on the 2nd July, 1850, and the correctness and regularity of the same were duly shown and admitted by the said House of Lords; and the said orders of 23rd May, 1848, and 2nd September, 1848, having been severally confirmed by the said order of 2nd July, 1850, made upon the hearing of said last appeal at the Bar of the House of Lords, I most emphatically insist that it was incompetent to the said House of Lords to discharge either of said orders upon a petition of re-hearing, or in any manner to interfere therewith, unless upon a re-hearing of the appeal itself.

My extraordinary case was *too well known* to all the *Officers of the said House of Lords*, who were engaged in the judicial business of the House, to admit of any incorrectness or irregularity ever being practised, or to admit of any misrepresentation being made in prosecuting the appeal of 1848 before mentioned, even if I or my agent had been inclined to be culpable thereof; and the said officers were, one and all, so cognisant of the facts of this case, and the several appeals theretofore brought by me to that House, that it would have been an utter impossibility for me or my agent, or any other agent, to have misrepresented the same, or to have acquired any unfair or undue advantage, even in the absence of the respondents to said appeal, the said officers having attended the appeal committees, upon whose report the said orders of 23rd May, 1848, and 2nd September, 1848, were made.

The said *House of Lords’ officers* and the said *appeal committees* made the strictest and most searching inquiry into all the facts and circum-

stances of the case before making the reports upon which the said orders of 23rd May, 1848, and 2nd September, 1848, were made, and upon each occasion of appearing before the said *appeal committees* all the proceedings in the said original cause in the said Irish Court of Chancery together with the aforesaid House of Lords' order of 5th February, 1846, and 8th July, 1847, and all orders made by the said House of Lords on the two former appeals, and all the House of Lords' reports of the hearing of said appeals were fully brought under the consideration of the said several appeal committees.

The late *Earl Cottenham*, then Lord High Chancellor of England, moved the Judgment of the said House of Lords on the two former appeals, that is to say, on the 27th August, 1839, and 8th July, 1847, respectively, and the said *Earl Cottenham* was Lord High Chancellor of England at the several and on the several occasions when said *appeal committees* made the several reports on which the said orders of 23rd May, 1848, and 2nd September, 1848, were respectively made, and *his lordship* was present at both of said *appeal committees*, and during the whole of the time the said appeal committees were occupied in relation thereto; and his lordship had been present also upon all the *appeal committees* on the two former appeals, and *Earl Cottenham* having made a searching inquiry into the facts of the case, and circumstances attendant upon the two former appeals and the proceedings in the said Irish Court of Chancery, declared himself perfectly convinced "*that the said decree of 30th January, 1835, had not been adjudicated upon by the said House of Lords, and that it was perfectly open to me to appeal therefrom in the year 1848.*"

The late *J. W. Currie, Esq.* (now deceased, but who at the time of presenting the appeal of 1848 was Clerk of Parliament) and all the officers of the said House of Lords expressed their concurrence in said opinion, and in the right of me then to appeal from the said decree of 30th January, 1835.*

This said order of 5th April, 1853, is irregular, improper, unconstitutional, and illegal, and sets at defiance the established and definitely acknowledged authority of the constituted Government of the realm.

The said order of 5th April, 1853, was obtained by undue means, and was the result, I believe and insist, of the said *Lord Cranworth* being prejudiced against me by the extra-judicial steps taken as aforesaid by the said *Lord St. Leonards* to give effect to the prayer of said second petition of re-hearing, by granting to the parties presenting same an order to which they were not entitled, either according to principles of law or equity; I believe that said Lord St. Leonards has, on the subject of the aforesaid proceedings, held private communications with the said trustees since, if not previously to, the time that he pronounced in the said Irish Court of Chancery the said decree of 30th January, 1835.

Henry Tommey, junr., my son, was agent for me in the years 1848, 1849, and 1850, and conducted my appeal during those years, and was

* NOTE.—Sir E. Sugden's decree, as Lord High Chancellor, authorising the sale of my property.

in attendance at the Bar of the House of Lords on the first and second days on which the said second petition of re-hearing was argued in the Session of 1853, and proved the service of notices requisite for the purposes of the appeal conducted by him, even though he had then (at the time of such proof) ceased to be my agent; and notwithstanding such attendances of my son, and several questions put to him by said Lord Cranworth, yet he was not examined, although he might have been, as to his conduct of said appeal, and the fact thus ascertained whether or not there was any, and, if any, what misrepresentation was made use of in obtaining the said orders of 23rd May, 1848, and 2nd September, 1848, or in obtaining any order made in the prosecution of the appeal conducted by him while acting as my agent.

The House of Lords did not, on the said 5th April, 1853, or previous thereto, make any judicial inquiry into the facts hereinbefore shown, which were within the cognizance of and means of proof by the Officers of the said House of Lords.

The House of Lords did not on the said 5th day of April, 1853, consider my petition mentioned in the said order of June, 1852, neither did the House call upon the said Thomas Haughton White to answer for his contempt aforesaid, nor did the House at any time make inquiry into the aforesaid acts of the said Thomas Haughton White; and I rely upon the said hereinbefore recited report in the *Times* Newspaper of 26th July, 1850, as evidence of the undue means by which the said order of the 5th April, 1853, was obtained, and as a proof that the several decrees and orders in the Irish Court of Chancery obtained by said trustees against me were *obtained* by the like means and undue influence.

In the month of July, 1853, I communicated by letter, to said Lord Cranworth that the Judgment given by the House of Lords in July, 1850, was binding, and should not have been interfered with in April, 1853, and prayed a restitution, notwithstanding the latter Judgment, to which Lord Cranworth replied "that the case having been decided upon by the House of Lords" (thereby meaning the said order of 5th April, 1853) "he could not interfere."

In the month of January, 1855, I forwarded a memorial to the Queen setting forth my grievances, and praying that Her Majesty might be graciously pleased to order an inquiry into the allegations of that memorial, and that justice might be done; and by communication dated 3rd February, 1855, from the Right Honourable Viscount Palmerston (then Secretary of State for the Home Department), I was informed that my memorial had been laid before the Queen, but Her Majesty had not been pleased to signify any commands thereon.

I then addressed a letter to Her Majesty seeking a reply to said memorial, in answer to which letter I was ordered to attend the Metropolitan Police Court in Bow Street, when the inspector on duty stated "that unless I desisted from writing to Her Majesty and the Officers of State for justice, I should get myself into prison."

Me and my family have been utterly ruined by the proceedings aforesaid (which caused the premature death of my wife) and we have by such

proceedings sustained injuries and losses to the amount of at least £150,000, and which I am advised and believe I should have ultimately recovered against the said trustees and their confederates, or some of them, under the said order of 2nd July, 1850; and the ends of justice have been defeated by the operation of the said order of 5th April, 1853, which has shut me out from immediate and all consequent relief under the said House of Lords' Order of 2nd July, 1850, after having spent *twenty-seven* good years of my life in obtaining it.

Deposition of SIR EDWARD BLAKELEY, Bart., K.C.B., as a Witness in the Cause :—

“ This deponent saith he recollects having been sent for by Colonel Aitchison of the Guards, then at the Royal Barracks, Dublin, who knew that this deponent had a great interest in the defendant Henry Tommey, and who wished that this deponent should hear what the plaintiff James White had to say about him,—and saith, that the said James White then stated, generally, a detail of the circumstances between him and the said Tommey, the particulars of which this deponent cannot now recollect, but this deponent saith, that from the conversations and statements then had and made, this deponent's impression was, that the said Henry Tommy was very badly treated, and saith that in consequence of such representations of the said James White, the said Henry Tommey was discontinued as messman to the Guards, this deponent saith that the loss of such situation did injure the character of the said Tommey, and did considerable injury to the business of the Hotel in Sackville Street, the Officers of the Guards who had been in the habit patronizing and frequenting the said Hotel having ceased to go there, after the said Tommey was discontinued their messman, and saith, that in consequence of the representations of the said James White the money due by the Guards to Tommey was withheld from him, they having been warned not to make any payment to him, and this deponent saith that the said Tommey was messman to deponent's regiment for a period of five years, and during that time very large sums of money passed through his hands and deponent never heard the slightest complaint of him.”

The Appeal.

The only prospect of redress I now have is the result of this appeal to the Public. The cause is now fairly before them, and by their expression of opinion—the continual publication of this pamphlet—the generous assistance of the Press and kind support of the benevolent, I hope, by these means, to obtain the co-operation of one of the independent Members of the House of Commons, to bring my Petition fairly before them and obtain for the same a fair and impartial hearing.

12, Hemlock Court, Carey Street,
Lincoln's Inn Fields.

HENRY TOMMEY, *Senr.*

All communications relative to the foregoing Case are respectfully requested to be addressed as above.

OFFICIAL CORRESPONDENCE and OPINIONS of the PRESS.

MODEL LODGING HOUSE.

1, GEORGE STREET, BLOOMSBURY,
TOMMEY v. WHITE.LORD CRANWORTH,
My Lord,

It is now three months and upwards since your Lordship gave judgment in this case. I am sorry to say that that judgment has placed me in a most deplorable condition. I have no prospect before me, but starvation; and starvation, my Lord, I think you will admit, must be the most horrible death a man can die.

I have been patiently waiting in expectation, that something in the shape of justice would have been done before this. My Lord, you must be aware that the judgment the House gave in my favor in 1850, is binding at the present moment. I have this faith in you, my Lord: had my case been brought disinterestedly before your Lordship, you never would have given judgment against me. I have forwarded to your Lordship a true statement of my grievances; I have also forwarded copies to those persons who, I think, I have more reason to complain of than your Lordship. I have also sent one to Her Majesty. I cannot reconcile myself to be robbed, and turned on the world to starve, that another man may be provided for, and that man a vile perjurer. I shall wait one week from this date for a reply; if I am guaranteed that justice shall be done to me, I shall proceed no further; otherwise I will never cease appealing to my Sovereign and my Country, for that justice which you must be well aware, my Lord, I am entitled to. My character for uprightness, honesty, and integrity, is well known to noblemen and gentlemen; for the truth of which assertion, I can with perfect confidence refer your Lordship to Colonel W. DRUMMOND, 107, Sloane-street; also to Generals Sir EDWARD BLACKENY and Sir GEORGE SCOVELL, both of whom I served under; therefore, my Lord, you will not listen to anything that may be said detrimental to my character, by parties who have lent themselves to destroy me and my family.

I am, &c., &c.,

HENRY TOMMEY.

26th, July, 1853.

HOUSE OF LORDS, 28th July, 1853.

SIR,—I am directed by the Lord Chancellor to acknowledge the receipt of your letter on the 27th instant, and to state that your case having been decided upon by the House of Lords, he cannot interfere; and, though he regrets your distress, he cannot further assist you.

I am, Sir,

Your obedient Servant,

W. C. SPRING RICE.

Mr. HENRY TOMMEY.

28th July, 1853.

LORD CRANWORTH,
My Lord,

I have this day received your Lordship's note. You say that, my case having been decided by the House of Lords, you cannot interfere. My case *was* decided by the House of Lords in 1850, and the respondents then petitioned for a re-hearing, when LORD BROUGHAM and LORD TRAVER, then Lord Chancellor, stated in the House on that occasion, "That there appeared to be no grounds advanced by the petitioner to warrant their Lordship's in granting the prayer of the petition, that the appeal should be heard over again. The party had not thought proper to appear when the case came on for argument in the regular order; the counsel in support of the appeal had been heard, and judgment had been pronounced by their Lordships. What had been done, therefore, could not be undone, except by Act of Parliament."—(*Vide Times*, 26th July, 1850.)

My Lord, you have interfered, and reversed the judgment given in my favour in 1850. I say again, my Lord, that judgment is binding to this very moment; if not, it is a downright mockery to call the House of Lords a final Court of appeal or a Court of justice. Justice, my Lord, is all I want; nothing less than justice will satisfy me. Had SUGDEN never been elevated to the Upper House, justice would never have been defeated. And, my Lord, I conscientiously hold you guiltless:—You say, my Lord, that you regret my distress; I cannot think your words are sincere; you caused that distress, and you only, my Lord, must remove me out of it. You said, in giving your judgment, "*I admit the proceedings of the Court below to be wrong; but if we give judgment in Tommey's favour there will be twenty families ruined.*" Had there been twenty times twenty families ruined, what had that to do with the justice of this case? I wait your reply, and am,

My Lord, etc., etc..

HENRY TOMMEY.

HOUSE OF LORDS, 2nd August, 1853.

Mr. HENRY TOMMEY,

SIR,—I am directed by the Lord Chancellor, to acknowledge the receipt of your letter, of the 29th inst., and to state again, that, though he regrets your distress, he must decline further correspondence on a matter in which he has no power to give relief. I am, Sir,

Your obedient Servant,

W. C. SPRING RICE.

WINDSOR CASTLE, January 26th, 1855.

SIR,—I beg to acknowledge the receipt of your letter of yesterday's date, enclosing a Memorial to Her Majesty the Queen.

This Memorial arraigns the characters of judges of different Courts, and it does not come

within my province to be the medium of communication to Her Majesty upon such subjects.

Any petition to the QUEEN upon public matters, should be forwarded to the Secretary of State for presentation to Her Majesty. I have, therefore, herewith returned you the Memorial, in order, that you may, should you think it desirable, take the proper official course.

I am, Sir,

Your obedient humble Servant,

Mr. TOMMEY.

C. B. PHIPPS.

WHITEHALL, 3rd February, 1855.

SIR—I am directed by Viscount PALMERSTON to acknowledge the receipt of your letter of the 17th ulto., enclosing a petition to the QUEEN, and other papers relating to your case; and I am to inform you that your Petition has been laid before the QUEEN, but Her Majesty has not been pleased to signify any commands thereon.

I am, Sir, your obedient Servant,

H. WADDINGTON.

Mr. HENRY TOMMEY.

From the *Daily News*, August 16th 1856.

We have no notion who Mr TOMMEY is; and care not whether he be a madman or not. If he be not, he has probably had enough to make him so, having as it appears, gone through a sort of *Jarndyce v. Jarndyce* experience in the Irish Court of Chancery, and been just cast in an appeal to the House of Lords.* These are not pleasant circumstances in a man's career. Even if they stop short of affecting his brain, they are apt to impart considerable bitterness to his actions. *Gridley*, it may be remembered, was not a remarkably smooth spoken man. There was a decided asperity in his temper, and an objectionable abruptness about his manner.

Whatever may be the case with Mr. TOMMEY, whether labouring only under the brief madness of anger, or the fixed anger of madness—we are of opinion, as far as the facts at present enable us to judge, that the man's treatment, as disclosed in our police reports of yesterday, and his own letter published in our impression of to-day, is such as to call for strong and indignant comment. Unless we are much mistaken, a very plain principle of justice has been violated in the proceedings to which we refer. The facts are shortly these: On Wednesday evening last, TOMMEY was hawking about the streets a pamphlet with the following heading—"Serious Charge of Treason and Conspiracy against Lord Chancellor Cranworth, Sir E. Sugden, *alias* Lord St. Leonards; Francis Blackburn, ex-Chancellor of Ireland; T. B. Smith, Master of the Rolls; and other Officers of State; being acts of Treason, Conspiracy, and Confiscation of Property, value 150,000*l*." The pamphlet, we find from our reporter's statement, contained charges of conspiracy, forgery, and fraud against all parties—judges, counsel, and witnesses—in the case of "TOMMEY v. WHITE.

Very gross and indecent this, no doubt—a nuisance which all prompt suppressors of street cries would naturally feel instantaneously moved to put down. A nobleman, whose name is as

yet unknown, but who is stated to be a member of the Army and Navy Club, acting on the spur of this feeling, gave TOMMEY in charge. The inspector at the Vine Street station could make nothing of it, and recommended that the charge should be withdrawn. The anonymous individual assented, and offered to compromise the matter by the *payment of a sovereign*, which was of course refused. Mr. TOMMEY demanded his name; he declined to give it. The same application was made to the inspector and repeatedly refused, the last refusal being accompanied with an intimation that *the name would not be given up without an order from a magistrate*. The next morning, accordingly, Mr. TOMMEY applied at Marlborough Street. Mr. BINGHAM, on hearing his statement, expressed surprise that any difficulty should have been made about the matter, and sent an officer to Vine-street for an explanation, and a request that the name should be given up. Our report of what follows differs in some respect from the statement in Mr. TOMMEY's letter to Sir GEORGE GREY. According to the report the Vine Street inspector decidedly refused to communicate the name as requested by the magistrate; according to Mr. TOMMEY's statement the officer returned with the name which Mr. BINGHAM, on being made acquainted with it, refused to communicate. The report and the letter both coincide in what followed, viz., that Mr. BINGHAM declared the matter not to be within his cognisance, and referred the applicant to Sir GEORGE GREY. Hence the letter to the HOME SECRETARY in which Mr. TOMMEY sets forth his case.

Now upon this statement it is, we think, undeniably clear that the conduct of the police authorities, including the magistrate as well as inspector, has been grossly and indefensibly wrong. *Ubi jus ibi remedium* is one of the plainest and most familiar principles of our law. "There is no wrong without a remedy," says the law of England. "Yes, but there is," says the law of the Police Courts. "It is a wrong," says the law, "for any one man to seize upon any other without justifiable cause, and parade him through the streets under the coercion of the police as a criminal." "It may be so," say the police authorities, "but we will take care that, as far as lies in our power, it shall be a wrong without a remedy, for we will withhold the name of a wrong doer, and so deprive the injured party of his means of redress." It is perfectly plain that this sort of thing wont do. A police force becomes one of the most odious weapons of power, unless above all things

* NOTE—The Editor has here fallen into error: I was not cast in an appeal; if I had been there would have been an end to the matter, but my appeal to the Lords was completely successful, and the House gave a Judgment in my favour and expressed themselves very strongly on the injustice of the inferior Courts from which I then appealed. (1850)

What I complain of in the pamphlet I was selling when arrested was the UNWARRANTABLE OVERTURNING of my Judgment by a single Lord, (Cranworth) in spite of Law, Equity, and Justice, and wholly without precedent.

it satisfies the two conditions, of absolute publicity and even-handed impartiality. In the present instance both these conditions appear to have been flagrantly violated. The police authorities, in order to screen a man of rank from the consequences of an act which the law does not justify, resort to a secrecy which violates not the letter of one law only, but the spirit of all our laws. We have had far too much already of secret agency on the part of the police. People have not yet forgotten the revelations which came out in a late trial for *crim. con.* on the Northern Circuit, as to the extent in which the detective force is secretly employed by private individuals for the confirmation of jealousy, or the gratification of revenge. The less we hear of the same kind of thing in future the better. We cannot understand the refusal of Mr. BINGHAM to interfere further in the case. As stated in the report, his conduct appears inexplicable; as related by Mr. TOMMEY, indefensible. Why should Sir GEORGE GREY have been referred to in the matter at all? If the inspector refused to give up the name at the bidding of the magistrate, the clear course was to report him to Sir R. MAYNE. If, indeed, the magistrate himself, on becoming cognisant of the name, refused to communicate it, a reference to Sir GEORGE GREY might be highly advisable—not, indeed, for the purpose of procuring for Mr. TOMMEY the right which, without such reference, he ought to have obtained at once and as of course, but for the purpose of enabling the Home-office to convey to the magistrate the censure he appears to have deserved. We shall watch the further development of this case with some curiosity, not from any personal sympathy with Mr. TOMMEY, but because we think it highly important that a close watch should be kept on all manifestations of arbitrary and overbearing conduct on the part of the police.

(From the LIVERPOOL NORTHERN TIMES.)

23rd August, 1856.

"It is difficult to understand how the practices of the Superior Courts of Law, of these realms, could have brought them into the universal disrepute which is now attached to their names. Chancery, once the seat of godly conscience, involves all who approach it, in search of justice, in want and beggary, and those men who undertake the administration of its affairs in a most censurable notoriety. The consistorial tribunals of the land are declaimed against with equal vehemence, and strange things are broadly cited by those who have been injured in reputation and fortune by some of their latest decisions. The House of Lords, as a Court of Appeal, participates in the general outcry against Star Chamber proceedings and Camarilla decisions. The public have, in truth, lost all faith in the wisdom, if not integrity, of every legal tribunal, from which a jury of honest and true men are excluded. It is freely admitted that there are many instances in which equity must take precedence of law, and that the usages of Chancery require years of study, and profound judgment, in order to give them the force of law, and to render them strictly just to all parties. But in

answer to this, it is urged that a jury of twelve reasonable and disinterested men are quite as capable of arriving at a sound and just verdict, in matters relating to the disposal of the property of widows, orphans, and lunatics, and to make decrees affecting personal and real estate, and the character of those whose conduct is impugned in an Ecclesiastical Court, under the direction of a judge, as they are in a case where the life of a fellow creature is placed in their hands.

"The present system of dealing with the property and interests of society is based on a palpable and contemptible fiction, for which we are indebted to the craft of lawyers, and the past ignorance of the community. It is perfectly monstrous to think that the property of the citizen can be swept into the Court of Chancery by any set of desperate knaves, for an indefinite number of years, while all the parties beneficially interested in the issue are left to starve, and find a premature grave in misery and degradation. No want of knowledge of the principles of equity can justify the possibility of such things occurring in this age. Chancery victims are to be found in far greater numbers in 1856 than there were in 1725, a period well deserving of being remembered by those who are responsible for the administration of justice. Thus far the glaring acts of cruelty and oppression which have been perpetrated on equity suitors, and persons who have been openly robbed of their estates behind their backs, have been mixed up with politics and faction interests. But such questions have no connection whatever with politics, except, indeed, that our Chancellors and Ecclesiastical Judges are all the devotees of some particular party; but beyond this they cannot be given a shade even of political complexion. The man who would tolerate an abuse of justice in any Court, would be a lawless Conservative, a dangerous Whig, and a vile Radical.

"We have, therefore, to look at the workings of the closed or non-jury Courts purely in a social light, and to ask ourselves how much longer the complaints brought before the public by those who have been wronged in these Halls of Justice can pass unnoticed? We will not give any man who sits behind a curtain to decide in the absence of the public (*i.e.*, a Jury) credit for being wholly above worldly influences, until it is proved that he is so. We will swallow nothing which is not made as savory as the records of truth and justice can make it, when we know that there are millions' worth of property lying between a judge's finger and thumb. It is a wonder that John Sadlier was not high in equity and that James Sadlier was not an Ecclesiastical Judge. If one had presided over the cause of *Stubber v. Wolfe* and *TOMMEY v. WHITE*, and the other over the *Talbot Divorce Trial*, the fiction we are asked to accept as common sense, would have suited their purposes admirably. But these three notorious cases are quite sufficient to show that there is no safety for the peace, happiness, respectability, and property of any family or individual in the three kingdoms, while juries are not suffered to hear and give a final decision where the rights

and interests of the subject are concerned. For upwards of forty long years was one unfortunate Chancery victim imprisoned in the Queen's Bench, where he died a short time since—for nearly thirty years have the heirs to the Stnbbet estates been falsely personated and robbed in Chancery, and they are still without redress. The Misses Elizabeth and Ann Shearwood, of Sheffield, have just been released from prison, after fourteen years confinement, which they were doomed to endure because they would not give up the title deeds to their property, that the Court of Chancery might deal with them as it liked. Mr. HENRY TOMMEY, who claims property worth £150,000, and who obtained a judgment in the House of Lords in his favour, but which has since been illegally and unconstitutionally reversed, is an inmate in a model lodging-house.

"Poor Mrs. Talbot, in the bloom of life, is pining away in Bedlam, after having been treated with the most brutal personal violence in her own house, and has been divorced from her husband and child upon the evidence of a convicted felon, upon whose evidence the Ecclesiastical Court gave its decree, but who was not produced at the bar of the House of Lords. A thousand other cases might be added to this list, but how long, we ask, will the veil of politics be able to

cover the mass of iniquity which these un-English and Arbitrary Courts are inflicting on the country? Mrs. Talbot's case is an outrage against public law and morality which can never be forgotten or pardoned. If the wretched woman had been a Hindoo, she could not have been treated worse than she has been by those around her hearth, and the authorities who ought to have protected her when she was brought before them as a raving maniac. This was not done. The cruelties she had met with seemed to call forth the worst enormities of injustice. And we should very much like to know what our law reformers propose to demand as a safe-guard to society in similar cases, and with regard to Chancery and Ecclesiastical suits and the highest Court of Appeal? The Talbot divorce business we hold in reserve as one of the most complete illustrations of the frightful law, affecting chastity, under which we live. The other causes we have cited belong to a different category which we shall refer to whenever the Legislature may make further futile attempts to stifle popular discontent, by merely making changes in the *practice* instead of reforming the *constitution* of our superior seats of corruption or ignorance, one or other of which they assuredly are, if we are to judge by their decisions."

AT A PUBLIC MEETING held at St. MARTIN'S HALL, on the 21st DECEMBER, 1858,—It was Resolved :

That a Committee be appointed, and the following Statement printed and circulated—

"The Committee appointed to act on behalf of Mr. Tommey venture to solicit your aid and sympathy for this poor unfortunate soldier who has faithfully served his country for more than 20 years, and who now in his old age is reduced to sorrow and destitution, by the most gross and fraudulent act of injustice ever perpetrated. We beg to state that from papers and documents in our possession, we can with the greatest confidence, refer for his character, to Gen. Sir George Scovell, Sir Edward Blackeney, Lord William Thynne, (under each of whom he has served,) and likewise to Gen. Stanhope, Lord J. Scotts, and Col. W. F. Johnson, late of the Grenadier Guards,

His youngest son is on active service in India, fighting the battles of a country, whose legal tribunals have so cruelly and unjustly deprived his father of his house and property, leaving him nothing to depend on for his support but a trifling pension of 9d. per day, 2s. 6d. of which he pays weekly for his lodging, leaving but 2s. 9d. to procure food and other necessities. He is upwards of 75 years of age, consequently past labour, and had it not been for some pecuniary assistance from time to time afforded by some noblemen and gentlemen, who humanely felt for the distressing position in which he was placed, he would long ere this, have been reduced to the most abject want. We are proud to say, His Royal Highness the Duke of Cambridge, and the Duke of Wellington, have each generously assisted him.

Previous to the formation of the Committee the following Noblemen and Gentlemen had acknowledged the justness of his case by kindly forwarding him Subscriptions—

His Royal Highness the Duke of Cambridge, the Duke of Wellington; LORDS: J. Scott, William Thynne, Truro, Brougham, Rokeby, Leigh, and William Paulet; GENERALS: Sir E. Blackeney, Sir George Scovell, Stanhope, Barnard, Lindsay, Shaw, Angerstein; COLONELS: G. Dixon, Douglas Penant, William Drummond, Cornwall, William Fludyer, William F. Johnstone, McKinnon, Colville, Lindsay, M.P., G. Drummond, Lascells, Gooch, and Campbell; the Gents of the Guards Club, Alderman Challis, E. Etherington, Esq., William Hayrick, Esq., John Grant, Esq., Thomas Moffard, Esq., and Edward Sturgeon, Esq.

Committee appointed.

Chairman of Committee—JOHN GRANT, Esq.

John Jackman, Esq., John Grant, Esq., Thomas Moffard, Esq., John Richards, Esq., Edward Sturgeon, Esq., Charles Hudson, Esq., William Hayrick, Esq., Joseph Haywood, Esq., William Dever, Esq., William Errington, Esq., George Bartholomew, Esq., John Edwards, Esq., Henry Parkinson, Esq., Edward Aldridge, Esq., William Stephenson, M.D., Denis Desmond, Esq.

"WE, the Committee, appointed at a Public Meeting at St. Martin's Hall, on the 21st of December, 1858, most earnestly beg that no one who is desirous of maintaining the administration of justice, in this our country, above reproach, will lightly pass by this statement, deeming it untrue or in any way exaggerated.

"Mr. H. Tommey, was in the year 1834, deprived of his property as a hotel-keeper in Dublin, by fraud and collusion, under proceedings taken against him, behind his back, in the Irish Court of Chancery, and which

fraud and collusion was confirmed by a decree, bearing date, January 30th, 1835, made by Sir E. Sugden, then Lord Chancellor of Ireland. After an imperfect hearing of the case, and after having strongly expressed an opinion, that the decree prayed for, ought not to be granted; yet, though having heard nothing PUBLICLY which could have influenced his judgment, he, in an impatient and precipitant manner, issued such decree in opposition to such former opinion expressed only the day previous.

It is here worthy of remark, that the Court of Chancery had not acquired Jurisdiction over Mr. Tommey's property; nor could it have interfered had he been defended by a truthful advocate, or had his case been tried by an impartial judge. In proof of which, see the following statement made by Lord Brougham, in the house of Lords, on the merits of the case.

Mr. Tommey, feeling confident in the justice of his cause, prosecuted his claim under circumstances of difficulty, which would have driven into the grave or the madhouse an ordinary man, fighting his way inch by inch, poor as he was, and notwithstanding the wealth and influence arrayed against him; until finding the Irish Courts either could not, or would not afford him redress, he, on the 2nd of July, 1850, appealed to the House of Lords, who, on hearing the case on its merits, reversed the decision of the Court below, thus replacing the Appellant, as far as the House could do so, in the same position as before the proceedings of 1834. Lord Brougham on hearing the appeal, stopped the address of Sir J. Romilly, applicant's counsel, by saying, "Stop, stop, Romilly, for God's sake, stop! I have heard enough of this case to satisfy me that there was something wrong in the court below." In giving judgment, his Lordship said, "We are bound to give this poor man all the justice we can, had he applied to us sooner, we would have stopped the sale of his property."

"Three weeks afterwards, the House of Lords was moved by petition for a re-hearing of the case, by the Respondents. Lords Brougham and Truro delivered judgment, by stating, that the case was settled by the decision already given, and that there was no law in existence which could allow the case to be re-heard; and, that no authority, save that of an Act of Parliament, could set aside what had been done. (See "Times" 26th July, 1850.)

"Now this is the undisputed and indisputable law of

the case; but mark what follows: this poor man believing in the irrevocability of this irrevocable decision, patiently awaited the settlement of this affair, but was put off from time to time; until two years had elapsed, when a change of ministry occurred, and the same Sir E. Sugden, whose decree had been reversed, became Lord High Chancellor of England, under the title of Lord St. Leonards, he had no sooner taken his seat in the Upper House, than the respondents, in spite of the illegality attending the granting of their request, again petitioned the House, employing as their attorney, Mr. Jemmett, of Kingston-on-Thames, a relation by marriage, of Lord St. Leonards. The House, by the mouth of Lord Cranworth, without any other proceeding than the mere receipt of such petition, reversed their decisions of 1850, and on that occasion, Lord Cranworth used these remarkable words:—"ADMITTING THE DECREE OF 1835 TO BE WRONG,—AND I KNOW IT TO BE WRONG; yet if we give Judgment in Tommey's favor, there will be twenty families ruined."

"Englishmen, is this Justice? Is not, in fact, this case unique in its injustice? Had Mr. Tommey been rich, so that he could have made the country ring with the truth of his cause,—could he have enlisted the Press on his side, no power in England would have dared so to have trampled upon Justice, but he is poor, and he has grown grey in the prosecution of his cause. Shall he pass away without any attempt on the part of his fellow men to assist him in the attainment of his right? Justice cannot be denied to the least of the community without affecting the whole. We therefore call upon all men who would wish to see a great wrong rectified, to afford us means by small contributions, to make it known through the land, by means of the Press, Public Meetings or otherwise, as may be most expedient.

"We, the Committee, humbly submit, That Mr. Tommey has strong claims on the sympathy of all honorable Englishmen, both for his own services to his country, and the services of his son.

"If a Judge has power to reverse a decision previously given in any court, more particularly that of the highest court of the realm, because it would suit his interest, or the interest of his friends; then, we maintain, there is an end of all confidence in the laws of our country, and we become the victims of the caprice of a power against which we can no more contend than if we lived in the dreariest despotism the world can show."

A SUMMARY OF THE PETITION.

April 9th, 1834.—Trustees filed Bill in Irish Court of Chancery against Myself and *Thomas Read Millikin*.

April 18th, 1834.—Attachment issued against me for want of appearance on account of neglect of my solicitor (Jas. Robinson,) not entering an appearance in due time.

April 25th, 1834.—Trustees applied to the Rolls Court for an order for appointment of Receiver over my hotel and property, and, inasmuch as Charles Hogan, Clerk of Court, admitted notice of said motion on my behalf and no one appeared to oppose the application, it was referred to Master Conner to appoint a proper receiver and manager,—*George Millikin* was so appointed—and James White, acting trustee, and *Thomas Read Millikin*, my landlord and co-defendant, were sureties for said *George Millikin*.

May 13th, 1834.—*George Millikin*, receiver, and *Thomas Read Millikin*, my co-defendant, entered the hotel to take possession of it, and followed me through the hotel, saying, "Get out, get out! or we will have the police and "turn you out."

May 14, 1834.—I was arrested and thrown into jail; though *Thomas Read Millikin*, my co-defendant did not answer for a month afterwards, he was not arrested. During the time I was in prison, J. K. Boswell, trustees' solicitor, went to the hotel and told Mrs. Tommey that her husband was in jail and in irons, under an order from the Court of Chancery, and would never be liberated; (from which fright she never recovered, and ultimately caused her premature death,) and gave directions to servants to obey Mr. Millikin.

May 15, 1834.—*George Millikin* made affidavit, swearing, that if I, my wife, or son were allowed to remain in the hotel, or interfere with the management of the business, it would ruined and destroyed. On that affidavit a writ of assistance was obtained behind my back, by which myself, wife, and children, were turned into the streets, without house or home, contrary to all law and justice.

Hilary Term, 1835.—Cause heard before Sir *Edward Burtenshaw Sugden*, who, on the second day of hearing at the rising of the

Court declared from the bench "that the trustees had no right to file said Bill of Complaint, and that he would dismiss it; that he put little faith in their evidence, and that the meeting in January, 1834, was a waver of all notices." *On the following morning, at the sitting of the Court, he desired to know if the case did not close there,* and without going further into it, Ordered a Sale of my Property!

March, 1837.—I filed a Bill of Review and Reversal and made original plaintiff, and Thomas Read Millikin, and George Millikin, defendants. George Millikin demurred to the Bill and demurrer was allowed against me, which Bill was dismissed out of Court for want of prosecution.

In 1844,—Sir E. Sugden was a second time appointed Lord Chancellor for Ireland. I went down to Thames Ditton and presented a Petition to him for restoration of my property, he sent out word to me by Mr. Senior, his son-in-law, to bring my case regularly before the Court and he would do me justice. I parted with all I was possessed to enable me to do so, and filed a fresh Bill of Review and Reversal, and defendants James White, Robert Courtney, George Kerman, and Thomas Read Millikin were four months in contempt of Court. They then petitioned the Court, and it was referred to the Master of the Rolls, Mr. Francis Blackburn, for liberty to file a plea that I may get the same relief under the Bill of 1837, as I sought under the Bill of 1844, and the said Mr. Francis Blackburn, Master of the Rolls, allowed them three weeks to file such plea, notwithstanding such Bill of 1837 was dismissed out of Court for my want of means to prosecute it. I produced the order in Court for the dismissal of the Bill of 1837, read it to Mr. Blackburn—he read it—and it is inserted—is in the order he made on the said application as being read—and to which order a reference can be made, and he also restrained me from proceeding with the Bill of 1844, until I had paid the costs of George Millikin incurred by the Bill of 1837, although he (George Millikin) was no party to the Bill of 1844, and had been paid his costs of the Bill of 1837, out of the proceeds of my property; and expressed himself from the bench "*That he was sorry he could do nothing more against me,*" upon which Chief Baron Pigot, who was then my counsel, thus expressed himself, "*These are not the words of a dispassionate Judge.*"

December, 1851,—I filed a cause Petition upon proofs that James White had disposed of his property to his sons for the purpose of avoiding the decree of the Court which had ordered payment to me of the monies found by the Masters' Report to be then due to me; and which Petition came on to be heard before

the then Lord Chancellor (Blackburn) of Ireland the 31st of May, 1852, when he dismissed the said Petition with costs against me.*

February, 1837,—On a motion before the Rolls Court.—The trustees and the Millikins having quarrelled as to the disposal of my property, and Mr. Litton, trustees counsel, stated in Court that they—the Millikins—ought not to have turned round on the trustees in the manner they did, as they—the trustees—had studied the Millikins interest only, and "*that at and previous to filing the said Bill they sailed in the same boat together,*" when Sir William McMahon, Master of the Rolls, was pleased to express himself from the bench, "*The Murder is out! and all the allegations of this poor man sitting there (meaning me) against us and our officers are true.*"

July 2, 1850.—Appeal to House of Lords for a Reversal of the Decree made by Sir Edward Sugden, January, 1835, ordering the Sale of my Property—when Lord Brougham stopped the address of my Counsel by stating, that he was satisfied the proceedings of the Irish Court of Chancery were wrong and had I applied to the House sooner they would have stopped the above sale—and gave judgment in my favour, thereby reversing all the proceedings in the aforesaid Court. Three weeks afterwards the respondents petitioned the House for a re-hearing, when Lords Brougham and Truro declared that such was impossible without a Special Act of Parliament.

Year 1852.—Sir E. Sugden elevated to the House of Lords under the title of Baron St. Leonards and Lord High Chancellor of England, the respondents a second time, petitioned the House for a re-hearing of the appeal, and which petition was got up by a relation of Lord St. Leonards (Mr. Jemmett of Kingston upon Thames) and in this second petition Lord Cranworth thought proper to dissolve the judgment the House gave me in 1850—and which act is both illegal and unconstitutional.

* NOTE.—It is necessary here to remark that when Mr. Blackburn was my counsel in 1835, he compromised my rights; and in 1834 and 1835, he made the most inconsistent orders against me, this accounts for the manner in which he dismissed my petition and denied me justice.

Lord St. Leonards has not only sanctioned but confirmed the above proceedings, and all the injustice I have suffered: And for what reason?—I shall feel happy to receive a reply.

H. TOMMEY, *Senr.*

12, Hemlock Court, Carey Street,
Lincoln's Inn Fields.

ERRATA.

Page 19, second column,—“And my Lord I conscientiously hold you guiltless,” READ, “And my Lord I *cannot* conscientiously hold you guiltless.”

Page 24, in Note.—“1834 and 1835,” READ “1844 and 1845.”

„ omitted as Note.—“What is Law? What is the meaning of Justice? if we are to see it dissolved before our eyes by such unheard of proceedings. Why did Lord Cranworth so wickedly dissolve the Judgment the House had given me in 1850? And why did the great BROUGHAM stand tamely by and see his Judgment overturned.”





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